



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 462-00
9 June 2000

LT [REDACTED]
[REDACTED]
[REDACTED]

Dear Lieuten[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 21 April 2000, copies of which are attached. They also considered their file on your prior case, docket number 7496-98.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

462-00

1610
PERS-311
21 April 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: [REDACTED], USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his original fitness report for the period 4 October 1997 to 31 January 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the fitness report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member indicated he did not desire to submit a statement.

b. The fitness report is a Periodic/Regular report. The member request the removal of his fitness report in question because it is adverse, and written because he was (unjustly) processed for separation. The report is not adverse as the member contends. In reviewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief, the petitioner has to show that either there is no rational support for the reporting senior's action or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion; he or she must provide evidence to support the claim. I do not believe Lieutenant [REDACTED] has done so. The fitness report itself represents the opinion of the reporting senior. Nothing provided in the petition shows that the reporting senior acted for illegal or improper purposes or that the report lacked rational support.

c. The fitness report in question appears to be procedurally correct. A fitness report is unique to the period being evaluated. The contents and grades assigned on a report are at the discretion of the reporting senior. The evaluation of a subordinate's performance and making recommendations concerning promotion and assignment are the responsibilities of the reporting senior.

d. The letter from the Board for Correction of Naval Records (Docket No. 7496-98) the member refers to was approved to correct the member's record concerning his discharge and reinstatement in the Navy. The fitness report was never a part of the member's petition.

e. A fitness report does not have to be consistent with previous or subsequent reports. Each report must stand on its own. The decision to mark a report as consistent is within the reporting senior's prerogative.

f. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

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Head, Performance
Evaluation Branch